UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/691,053	WIMMER, CHRIS
	Examiner	Art Unit	
	Jason K. Gee	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _06 August 2007_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-4, 6-9, 11-29 and 31-35_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-4, 6-9, 11-29, and 31-35_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _22 October 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is response to communication: amendment filed on 08/06/2007.

2.   Claims 1-4, 6-9, 11-29, and 31-35 are currently pending in this application.

Claims 1, 6, 19, and 31 are independent claims.

3.   No IDS was received for this application.

Response to Arguments

4.   Applicant's arguments with respect to the claims have been considered but are

moot in view of the new ground(s) of rejection.

As per the arguments regarding the motivation to add the Yoshida reference, a

new reference, Chang, is used, in addition with Yoshida. Chang teaches that identifiers

may be placed on hidden borders of a television broadcast. It is very well known in the

art, if not obvious, that television broadcast may include multiple programs. Yoshida is

used to teach that it is well known in the art that video may include multiple programs.

Claim Objections

5.   Claims 14 is objected to under 37 CFR 1.75(c), as being of improper dependent

form for failing to further limit the subject matter of a previous claim. Applicant is

required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper

dependent form, or rewrite the claim(s) in independent form. As per these claims, the

applicants recite wherein an amount of the personal identity information added to the

program is based on the security level of the program. However, these limitations are

already in the independent claims.

Claim Rejections - 35 USC § 101

6.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7.   Claims 9 and 33 are rejected under 35 U.S.C. 101 because the claimed the

disclosed invention is inoperative and therefore lacks utility.

As per claims 6-18, the claims recite retaining the personal identifier on a hidden

border of a frame on the client device, and displaying the personal identifier when the

video content is replayed on the same client device. However, as discussed in the

applicant's specification, an identifier is hidden because it is not in the 'safe area' of a

television. However, when transferred on a computing device, the computing device

has a larger viewing area, and thus, the identifier can be seen. This claim however

recites that personal identifier is on a hidden border on the client device, and this

identifier is shown when the content is replayed on the same client device. If the first

client device is a television, as described in the specification, it is not possible to display

the identifier on the television, even if it is replayed. Further, claim 9 recites that the

client device may indeed be a television set. According to the specification, the

personal identifier is displayed when it is replayed on another device, not the same

client device.

As per claim 33, the claim recites wherein the image of the personal identifier

overlays the video content when the video content is displayed. However, the

independent claim recites that the image is on a hidden border, and thus, it cannot be

overlayed on the video content, but on the hidden border.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a
person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived
by the manner in which the invention was made.

9.   Claims 1, 6-9, 19, 24, and 31-35 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Patton et al. US Patent Application Publication 2003/0016842

(hereinafter Patton), in view of Chang et al. US Patent Application Publication

2003/0110516 (hereinafter Chang).

As per claim 1, Patton teaches a method comprising: receiving video content to

be protected from redistribution (taught throughout the reference, such as in paragraphs

30, 32, 36 41; Figure 7); adding a personal identifier in a video content (paragraph 31),

wherein the personal identifier displays information associated with a user of the video

content (paragraph 31). However, at the time of the invention, Patton does not explicitly

teach retaining the personal identifier on a hidden border of a frame on a television

monitor. However, this is taught by Chang, such as in paragraph 23 and 29. As well known in the art, an image/object that is displayed outside the 'safe' area will not be displayed on a tv such as a cathode ray tube, but would be displayed in a computing device such as a computer or tv's such as hdtvs. Therefore, the personal identifier will be displayed when the video content is transferred to a computing device, because a computer device is capable of showing data outside a safe area of the tv..

At the time of the invention, it would have been obvious to one of ordinary skill in the art to include embedding information outside the safe area of a tv. One of ordinary skill in the art would have been motivated to perform such an addition to allow embedding important information in signals that do not degrade performance and also prevents data being lost in systems. This is taught in Chang paragraph 7. Further, Chang is relevant art, as it teaches embedding information into the tv signals, such as watermarks and data used for copy protection.

As per claim 6, Patton teaches a method, comprising: receiving video content in a client device (taught throughout the reference, such as in paragraphs 30, 32, 36 41; Figure 7); adding a personal identifier to the video content, wherein the personal identifier signifies personal identity information on an owner of the client device (paragraphs 30, 31), wherein an amount of the personal identifier that is added to the video content is based on a security level of a program (paragraph 59). The other elements are rejected using the same basis of arguments used to reject claim 1 above.

As per claim 7, Patton teaches including the personal identifier in the video content when the client device outputs the video content (Figure 6A and 6B).

As per claim 8, Patton teaches wherein the client device outputs the video content by displaying the video content (Figures 6A and 6B).

As per claim 9, Patton teaches wherein the client device is one of a television, a television set-top box, a personal computer, a personal digital assistant, a digital versatile disk player, or a personal video recorder (paragraph 52).

As per independent claim 19, Pattont teaches a branding engine for video content, comprising: a brand generator to produce a brand, wherein a brand includes at least one piece of personal identity information about a user of the video content (paragraphs 31, 33); a branding decision engine, wherein if the video content comprises frames, then to decide which frames of the video content are to receive a brand (paragraphs 34, 59); and an overly generator to place the brand in the video content (paragraphs 33, 38). The other limitations of the claim are rejected using the same basis of arguments used to reject claims 1 and 6 above.

As per claim 24, Patton teaches further comprising a database of personal identity information about the user communicatively coupled with the branding decision engine (paragraph 58).

Independent claim 31 is rejected using the same basis of arguments used to reject claim 1 above and is clearly taught throughout Patton. Computer readable media

containing instructions that are executable by a computer to perform such actions are

inherent to the system taught in Patton, as Patton utilizes actions that are performed on

a computer.

Claim 32 is rejected using the same basis of arguments used to reject claim 8

above. This is also shown in Patton Figures 6A and 6B.

As per claim 33, Patton teaches wherein the image of the personal identifier

overlays the video content when the video content is displayed (Figures 6A and 6B).

Claim 34 is rejected using the same basis of arugments used to reject claims 7,

8, and 34.

As per claim 35, Patton teaches adding the personal identifier as a video signal

to the video content and outputting the video content and the personal identifier (taught

throughout Patton, such as in paragraphs 30-36 and Figures 6A and 6B.

10.   Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Patton and Chang as applied above, and in view of Yoshida US Patent No. 6,411,712

(hereinafter Yoshida).

As per claim 2, Patton does not explicitly teach wherein the video content

includes multiple programs. Multiple programs in a video content is well known in the

art. Yoshida teaches the use of multiple programs in a video content throughout the

reference, such as in Figure 23 a-e. More information may be found in col. 31 lines 30-

43. Further, Chang deals with television broadcast, and it is very well known in the art,

if not inherent, that multiple programs may exist in a television broadcast.

At the time of the invention, it would have been obvious to one of ordinary skill in

the art to include multiple programs in a video content. One of ordinary skill in the art

would have been motivated to perform such an addition to be able to supply multiple

programs to a user so that he may have a variety of programs to view. Also, by

supplying multiple programs, programs may be free or some may be paid for, as taught

in Yoshida col. 1 lines 36-49.

Claim 11 is rejected using the same basis of arguments used to reject claim 2

above.

11.   Claims 3, 4, 13-16, and 20-23 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Patton, Chang, and Yoshida as applied above, and further in view of

Stone US Patent Application Publication 2002/0080964 (hereinafter Stone).

As per claim 3, Patton teaches throughout the reference the addition of personal

identifiers, and Yoshida teaches a way to distinguish between free and subscription

video programs. Also, Patton teaches that the system can determine whether or not to

embed a personal identifier in paragraph 59: The Patton combination does not explicitly

teach the use of metadata. However, metadata, and a distinguishment between free

and bought metadata is by Stone throughout the reference, such as in paragraph 120-121.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to include metadata. One of ordinary skill in the art would have been motivated to perform such an addition to be able to include additional information to distinguish between programs, as it would provide clarity.

As per claim 4, Stone teaches in paragraph 120 that the metadata is electronic program guide information.

As per claim 13, Yoshida teaches throughout the reference of free and subscription programs. The free programs would have low levels of security (as they are not encrypted, as taught throughout the reference), and the subscription programs would have high security levels (as they are encrypted). Metadata is taught in Stone as shown in the rejection for claim 3 above, and as seen in paragraph 120, free and bought metadata can be distinguished.

Claim 14 is rejected using the same basis of arguments used to reject claim 6 above.

As per claim 15, as best understood by the Examiner, Patton teaches wherein the displayed size of a personal identity information added to a program is based on the security level of the program (paragraph 59, wherein if the value of n=0, there would be no identifier, and thus, the size would be zero).

As per claim 16, as best understood by the Examiner, Patton teaches wherein the visibility of a location of the personal identity information within a displayed image of

the program is proportional to the security level of the program (paragraph 59, wherein if the value of "n" is 0, the visibility of a location would be zero, and if n is greater than 1, the visibility of the location can be seen).

As per claim 20, Stone teaches being able to read metadata about the video content, which would inherently require a metadata reader. Security information of whether to brand the video is taught throughout Patton and Yoshida, such as in Patton 59. Yoshida teaches throughout the reference a system which can decide which program to encrypt or remain unencrypted (such as with subscription and free programs).

As per claim 21, Yoshida teaches distinguishing between secure and non-secure programs, and Patton teaches a decision whether to brand the video or not, in paragraph 59.

As per claim 22, Patton teaches wherein the security information includes a security level for a program within the video content (paragraph 59), wherein the security level determines characteristics of the brand to be added to the program (paragraph 59). Yoshida also teaches the security levels of the different programs (level of secure/encrypted and free/unencrypted).

Claim 23 is rejected using the same basis of arguments used to reject claims 14-16

12.   17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Patton, Chang, Yoshida, and Stone as applied above, and further in view of Schmelzer

US Patent Application Publication 2003/0037010 (hereinafter Schmelzer).

As per claim 17, the Patton combination teaches metadata, but does not

explicitly teach wherein the metadata includes a record of the user's history of

unauthorized redistribution of a video content. However, a record of the user's history

of unauthorized redistribution of a video content is well known in the art, as taught

throughout Shmelzer, such as in paragraph 74.

At the time of the invention, it would have been obvious to combine the teachings

of Schmeizer with the Patton combination. One of ordinary skill in the art would have

been motivated to take into account a user's fraudulent history to be able to ensure that

the valued content is safe by determining if further protective actions need to be

performed on the valued content.

As per claim 18, Schmelzer teaches taking further action when a related

fraudulent history record of a user is detected in paragraph 74. The variance in display

factors are rejected as shown in the rejections for claims 14-17 above.

13.   Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patton

and Chang as applied above, and in view of Simpson et al. US Patent Application

Publication 2003/0165253 (hereinafter Simpson).

        As per claim 25, Patton and Simpson do not explicitly teach a store of identifiers

associated with the database of personal identity information. However, a store of

identifiers that are used for embedding is taught in Simpson throughout the reference,

such as in paragraphs 16, 31, 32.

        At the time of the invention, it would have been obvious to include a store of

identifiers that are associated with a user. One of ordinary skill in the art would have

been motivated to perform such an addition to be able to associate images that are to

be embedded easily. Simpson is also directed toward embedding visual watermarks to

protect from distribution.

14.   Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Patton, Chang, and Simpson as applied above, and further in view of Schmelzer US

Patent Application Publication 2003/0037010 (hereinafter Schmelzer).

        As per claim 26, Patton and Simpson teach a database of personal identity

information, but does not explicitly teach a record of the user's history of unauthorized

redistribution. This is taught though in Schmelzer, such as in paragraph 74.

At the time of the invention, it would have been obvious to combine the teachings of Schmeizer with the Patton combination. One of ordinary skill in the art would have been motivated to take into account a user's fraudulent history to be able to ensure that the valued content is safe by determining if further protective actions need to be performed on the valued content.

As per claim 27, Patton teaches making a branding decision (paragraph 59). Schmelzer teaches that actions can be determined based on the record of the user's history (paragraph 74).

15.   Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patton, Chang, Simpson, and Schmelzer as applied above, and further in view of Stone US Patent Application Publication 2002/0080964 (hereinafter Stone).

As per claim 28, Patton teaches making a branding decision (paragraph 59) based on security levels. However, the use of metadata is not taught. Metadata, such as free and bought metadata, is taught throughout Stone, such as in paragraphs 120-121.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to include metadata. One of ordinary skill in the art would have been motivated to perform such an addition to be able to include additional information to distinguish between programs, as it would provide clarity and more security for the programs that need to be secured..

Claim 29 is rejected using the same basis of arguments used to reject claim 23

above.

Conclusion

16.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

17.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jason K. Gee whose telephone number is (571) 272-

6431. The examiner can normally be reached on M-F, 7:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kambiz Zand can be reached on (571) 272-3811. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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Business Center (EBC) at 866-217-9197 (toll-free).

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09/17/2007

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SUPERVISORY PATENT EXAMINER